(114)

HIGH COURT OF CHHATTISGARH AT BILASPUR

(Division Bench)

Coram: Hon'ble Shri Jagdish Bhalla, Ag.C.J. &
Hon'ble Shri Satish K. Agnihotri, J.

Writ Petition No. 3342 of 2005

Petitioner		Om Prakash Gupta, S/o. Shri Nathuram Gupta, Aged about 18 years, Occupation – Manager (Dineshwar Mahadeo Mandir), Resident of near Sewa Kunj Thana – Road, Raigarh (C.G.)
	Versus	
Respondents	1.	State of Chhattisgarh Through Secretary, Revenue Department, D. K. S. Bhawan, Raipur (CG)
	2.	Collector, Raigarh (C.G.)
	3.	Nazul Officer, Raigarh (C.G.)
	4.	Agrasen Sewa Sangh, Raigarh, Through its President Shri Maturam Agrawal, new Market Raigarh, a society registered under Society Registration Act, bearing Registration No. 44/73.
	5.	Nagar Nigam Raigarh, earlier Municipal Council Raigarh, Through Commissioner Raigarh.
	6.	Seth Kirodimal Trust Through its Managing Trustee, Raigarh (C.G.)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

Smt. Hamida Siddque, Advocate for the petitioner.

Shri U. N. S. Deo, Govt. Advocate for the respondents No. 1 to 3.

Shri Rajeev Shrivastava, Advocate for the respondent No. 4.

None for the respondent No.5.

Shri Rakesh Pandey, Advocate for the respondent No.6.

(115)

ORAL ORDER

(Passed on this 29th day of November, 2007)

The following oral order of the Court is passed by

Hon'ble Shri Jagdish Bhalla, Acting C.J.

The petitioner has approached this Court with the prayer that writ be issued for canceling the lease granted in favour of the respondent No. 4 and further prayed that the respondents No. 4 and 5 may be directed to bring the suit land in the previous condition, maintaining a clean water tank for the general public.

Learned counsel for the petitioner relies upon a decision of the Supreme Court in **Hinch Lal Tiwari Vs. Kamala Devi and others** (A.I.R. 2001 S.C. 3215), wherein it is provided that the material resources of the community should be preserved and the water tank in question, is material resource of the community.

We called upon the petitioner regarding maintainability of the petition in the light of the document Annexure P/10, wherein an application has been moved under Section 32 of the Chhattisgarh Land Revenue Code, 1959 before the Collector, Raigarh, wherein the father of the petitioner has prayed for an enquiry to be conducted and thereafter the lease granted to the Seth Kirodimal Trust and Agrasen Sewa Sangh be cancelled. The said application was moved on 26th April, 2005.

Learned counsel appearing for the petitioner submits before this Court that in fact the above application (Annexure P/10) was moved by the petitioner. We do not find his name, however, after perusing the prayer made in the statutory application (Annexure P/10) filed on 26th April, 2005, and the prayer made in this petition, which was filed on 6/9th May, 2005, it is crystal clear that the prayers are one and the same.

Since alternative remedy has already been availed with the same prayer, this petition is not maintainable. Accordingly the writ petition is dismissed, as such.

Sd/-
Ag. Chief Justice

Sd/-
Satish K. Agnihotri
Judge